T HE HON'BLE SRI JUSTICE C.V. RAMULU

Friday, 30th June, 2006

W.P.No.7524 of 1998

Between:

Malik Iqbal Khan … Petitioner

and

Cooperative Tribunal, A.P.,
Chandra Vihar Complex,
Hyderabad & others

…Respondents

T HE HON'BLE SRI JUSTICE C.V. RAMULU

W.P.No.7524 of 1998

ORAL ORDER:

This Writ Petition is filed seeking a Certiorari calling for the records relating to Award No.817/95/31, dated 15-3-1995 passed by the 2nd respondent as confirmed by the 1st respondent in C.T.A.No.100 of 1996, dated 7-3-1998 and all further proceedings including the attachment and sale of the petitioner's house in E.P.No.476 of 1995 and quash the same as they are arbitrary and illegal.

It seems, the petitioner obtained housing loan of Rs.1,50,000/- from the 3rd respondent-Bank (now under liquidation). When he fell in due, the matter was referred to the Arbitrator, who passed Award against the petitioner. Thereafter, the petitioner carried the matter in appeal being C.T.A.No.100 of 1996, wherein the Award passed by the Arbitrator was confirmed. Aggrieved by the same, the present Writ Petition is filed.

It is the contention of learned counsel for the petitioner that no notice of any kind was issued to the petitioner before passing the Award and issuing the impugned certificate by the Arbitrator. In the appeal filed before the Cooperative Tribunal also, this plea was taken saying that no proper notice was served on the petitioner, but the same was not properly considered by the Tribunal.

It was found by the Tribunal that in the arbitration proceedings,

notice was served on the second son of the petitioner, who was a minor by that time. However, the wife of the petitioner sent a letter dated 14-3-1995 through her son informing the Arbitrator that her husband was away at Delhi and as such, sought for extension of time. Therefore, it cannot be said that no proper notice was served on the petitioner. The only thing is that when a letter was received by the Arbitrator on 14-3-1995 from the wife of the petitioner stating that the petitioner was away and sought some time, time should have been granted. Instead of that, the Arbitrator passed an Award and issued the certificate under Section 71(1) of the A.P. Cooperative Societies Act,1964 on the very next day i.e. 15-3-1995. There are no details, for how many days the petitioner was in Delhi. However, as soon as the notice dated 1-3-1995 was served on the minor son, the wife of the petitioner sent a letter informing the authorities that her husband was away at Delhi and some time may be granted for conducting enquiry. Without granting any time, the Arbitrator has passed the Award. In the above circumstances, I am satisfied that there is a violation of principles of natural justice. Therefore, the Award passed by the Arbitrator itself is in gross violation of principles of natural justice. Neither the petitioner was heard nor time was extended by the Arbitrator and immediately, on the next day, i.e. 15-3-1995 Award was passed and the impugned certificate was issued. Therefore, the Award passed by the 2nd respondent and the certificate issued on 15-3-1995 as confirmed by the 1st respondent in C.T.A.No.100 of 1996 are liable to be set aside and are accordingly set aside.

Accordingly, the Writ Petition is allowed. No costs.

However, while conducting fresh enquiry against the petitioner, if any, the respondents shall take into consideration the amounts

already paid by him, before and after passing the Award, as well as the amounts deposited during the pendency of this Writ Petition.

30-6-2006

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